

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
OAKLAND DIVISION

JOEL HORNSTEIN, On Behalf of  
Himself and all Others Similarly Situated,

No. C 07-3239 SBA

**ORDER TO SHOW CAUSE**

Plaintiff,

vs.

THE VANGUARD GROUP, INC.,

Defendant.

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On September 4, 2007 Defendant filed a motion to dismiss, which is scheduled for hearing on October 23, 2007 [Docket No. 27]. Plaintiff has failed to file an opposition or otherwise respond to the motion.

Given that this Court's Standing Order states that "the failure of the opposing party to file a memorandum of points and authorities in opposition to any motion shall constitute a consent to the granting of the motion," the Court may summarily grant the motion. However, in the interest of providing Plaintiff with one last chance to prevent his case from being dismissed, IT IS HEREBY ORDERED that the hearing on the motion to dismiss scheduled for October 23, 2007 [Docket No. 27] is VACATED.

IT IS FURTHER ORDERED that:

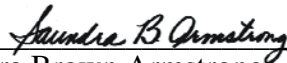
- (1) Plaintiff and/or Plaintiff's counsel of record shall appear in Courtroom 3 of the United States Courthouse, 1301 Clay Street, Oakland, California, on **November 28, 2007, at 4:00 P.M.**, to show cause why the above-captioned case should not be dismissed without prejudice for failure to prosecute.
- (2) At least **ten** days prior to the above hearing, Plaintiff or Plaintiff's counsel of record must file a Certificate of Counsel with the Clerk of the Court, to explain why the case should or should not be dismissed for failure to prosecute. The Certificate shall set forth the nature of the case, its present status, the reason it has not been brought to trial or otherwise terminated, any basis for opposition to

1 dismissal by any party, and its expected course if not dismissed.

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3 (3) Please take notice that this Order requires **both** the specified court appearance  
4 **and** the filing of the Certificate of Counsel. Failure to fully comply with this  
order will be deemed sufficient grounds to dismiss the action.

5 IT IS SO ORDERED.

6  
7 Date: 10/18/07

  
Saundra Brown Armstrong  
United States District Judge